



Danish Agency for Development of Trade and Industry
Executive Order No 771 of 6 October 1997

Executive Order on the Submission of Declarations, Control and Inspections pursuant to the United Nations Convention on the Prohibition of Chemical Weapons

In pursuance of sections 4, 5(2), 6(5) and 8(2) of Act No 443 of 14 June 1995 on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons as amended by Act no 470 of 10 June 1997 and following negotiation with the Minister for Foreign Affairs and the Minister for Justice, it shall be laid down:

Chapter I

Submission of Declaration

1. The Danish Agency for Development of Trade and Industry is the National Authority under the Convention and as such in charge of contact to the OPCW (Organisation for the Prohibition of Chemical Weapons) pursuant to the United Nations Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

2.(1) Enterprises which produce, procure, use, stockpile, import or export chemicals listed in Schedule 1 of the Annex attached to this Executive Order are under obligation, if requested, to submit information on the matter to the Danish Agency for Development of Trade and Industry.

(2) Enterprises are required, prior to import or export of chemicals listed in Schedule 1, to notify the Danish Agency for Development of Trade and Industry.

(3) Pursuant to subsection 2, notification shall be given not later than 40 days prior to import or export.

(4) Under the rules governing control of import and export of products covered by the weapons legislation and under the rules governing control of export of products of double application, the obligations of enterprises shall not be affected.

3.(1) Enterprises which produce, process, use, import or export chemicals listed in Schedule 2 of the Annex attached to this Executive Order are under obligation, if requested, to submit information on the matter to the Danish Agency for Development of Trade and Industry.

(2) Under the rules governing control of export of products of double application, the obligations of enterprises shall not be affected.

4.(1) Enterprises which produce, import or export chemicals listed in Schedule 3 of the Annex attached to this Executive Order are under obligation, if requested, to submit information on the matter to the Danish Agency for Development of Trade and Industry.

(2) Under the rules governing control of export of products of double application, the obligations of enterprises shall not be



affected.

5. Enterprises which manufacture discreet organic chemicals (DOC) and chemicals containing elements such as phosphorus, sulphur and fluorine which are not listed in Schedules 1, 2 and 3 of the Annex attached to this Executive Order are under obligation, if requested, to submit information on the matter to the Danish Agency for Development of Trade and Industry.

6.(1) Requests for information pursuant to sections 2 - 5 shall be made by means of questionnaires forwarded by the Danish Agency for Development of Trade and Industry to the enterprises which are affected by the Convention. In the first quarter of a year information shall be submitted on activities relating to the preceding year's activities, and in the last quarter of a year information shall be submitted on activities relating to the forthcoming year.

(2) After having been completed and signed, the questionnaires shall be returned to the Danish Agency for Development of Trade and Industry within a time-limit fixed by the Danish Agency for Development of Trade and Industry. The information will subsequently be forwarded to the OPCW in the form of declarations.

7. (1) All sensitive information will be treated as confidential by the Danish Agency for Promotion of Trade and Industry.

(2) When submitting information to the Danish Agency for Promotion of Trade and Industry, enterprises may request that the information be treated according to a special OPCW procedure of confidentiality pursuant to the Confidentiality Annex of the Convention.

Chapter 2

Control

8. The Danish Agency for Development of Trade and Industry is entitled to pay unannounced control visits to enterprises under the provisions of section 6 of the Act.

9. Control will be initiated partly on suspicion of wrongful and misleading information or suppression of information, partly as random checks.

10. Any control visit shall be followed up by a written report to be submitted to the enterprise not later than 10 days after the control visit.

Chapter 3

Inspections

11. International inspectors appointed and trained by the OPCW are entitled to pay inspection visits to Danish enterprises.

12.(1) The nature of the inspections may be that of either routine inspections or challenge inspections.

(2) A routine inspection is a check performed at the actual enterprise of the information on chemicals which enterprises have



submitted to the Danish Agency for Development of Trade and Industry.

(3) A challenge inspection is a charge brought against Denmark by another State Party that Denmark violates the Convention prohibition of chemical weapons, and that an inspection on Danish territory shall, therefore, be initiated.

Routine Inspections

13.(1) Pursuant to the provisions of section 2 of the Act, the international inspection team shall, on due proof of identity, be granted access to inspect any property, any building or any area within a building; and shall be granted permission to perform the control activities mentioned in section 14.

(2) Inspectors must be approved by the Danish Agency for Development of Trade and Industry and must, during inspections, be accompanied by one or several representatives of the Danish Agency for Development of Trade and Industry and any other relevant Danish authorities.

14. The international inspection team and the Danish escort team shall be granted access to

- 1) inspect any property, any building or any area within a building;
- 2) see relevant data bases, documents and records;
- 3) interview facility personnel;
- 4) take photographs;
- 5) have goods traffic from the enterprise halted and checked;
- 6) collect and analyse samples at the enterprise; and bring along and apply measuring instruments and other technical equipment for the purpose of collecting and registering information.
- 7) leave measuring instruments and other material on site for the inspection and
- 8) collect all other particulars of significance for the inspection.

15.(1) The enterprise is required to make all relevant facilities available to the inspection team such as communications, office premises, equipment and provide assistance in the use of this to the extent desired by the inspection team.

(2) The enterprise personnel are required to provide assistance in the conduct of the inspection to the extent desired by the inspection team.

16.(1) On the arrival of the inspection team and prior to the initiation of the inspection, representatives of the enterprise shall brief the inspection team by means of maps and other documentation relating to the enterprise, its activities, safety measures as well as administrative and logistics measures which are required for the inspection.

(2) The time spent on briefing shall be limited to the minimum necessary and under no circumstances may it exceed three hours.

17.(1) The inspection team shall perform inspections at enterprises in the least disruptive way, compatible with effective



and timely implementation of its mission.

(2) The inspection team shall avoid unnecessarily obstructing or delaying the operations of a facility and avoid impacting on its safety.

18.(1) The inspection team shall pay regard to any proposals made by the Danish Agency for Development of Trade and Industry at any time in the course of the inspection with a view to ensuring that equipment or information of a sensitive nature, not related to chemical weapons, is protected.

(2) Through the Danish Agency for Development of Trade and Industry the enterprise may point out to the inspection team that it is of the opinion that the inspection team has exceeded the scope of the Convention.

19.(1) Representatives of Danish authorities or representatives of the enterprise are required, if requested by the inspection team, to draw samples in the presence of the inspectors.

(2) Subject to the prior consent of the Danish Agency for Development of Trade and Industry or the enterprise, the inspection team itself may carry out the sampling.

20.(1) The inspection team is, where it is feasible, entitled to conduct analyses of the samples at the enterprise by using certified equipment, brought along by the inspection team.

(2) Representatives of the enterprise shall, if requested by the inspection team, assist in on-site analysis of the samples.

(3) The inspection team may, alternatively, request that proper analysis be performed in its presence by representatives of the enterprise.

21. The Danish Agency for Development of Trade and Industry and the enterprise are entitled to keep part of all samples drawn or to draw an extra set of samples and be present at the on-site analysis of the samples.

22.(1) The inspection team may, if it considers it necessary, transfer samples for analysis to off-site laboratories designated by the OPCW.

(2) The Director General of the OPCW has chief responsibility for safety, integrity and storing of the samples and shall ensure that the confidential nature of the samples is protected.

(3) The samples transferred shall be analysed at a minimum of two laboratories designated by the OPCW.

23. The enterprise is entitled to take measures to protect sensitive installations and prevent disclosure of confidential information and data not covered by the declaration obligations. Such measures may inter alia include:

- 1) removal of sensitive papers from office spaces;
- 2) Shrouding of sensitive displays, stores, and equipment;
- 3) Shrouding of sensitive pieces of equipment, such as computer or electronic systems and
- 4) Logging off of computer systems.



24. Representatives of the enterprise are entitled to be present during the entire inspection.

25.(1) At the end of the inspection the inspection team shall meet with the National Authority and a representative of the enterprise with a view to reviewing the preliminary findings of the inspection team and clarifying any uncertainty.

(2) The inspection team shall submit to the Danish Agency for Development of Trade and Industry its preliminary findings in writing together with a list of all samples and copy of the material to be removed from the enterprise.

(3) The enterprise is entitled to a receipt for the material to be removed from the enterprise.

26.(1) The inspectors are required to draw up a factual and final report on their inspection and the findings thereof not later than 10 days after the inspection. Before the report is forwarded to the Director General, it shall be submitted to the Danish Agency for Development of Trade and Industry for comments, if any.

(2) The enterprise is entitled to have the report submitted for comments by the Danish Agency for Development of Trade and Industry.

Challenge Inspections

27. The same inspection procedures shall apply to challenge inspections as to routine inspections, cf sections 13 - 26.

28. The inspection team shall take into consideration suggested modifications of the inspection plan to ensure that sensitive equipment, information or areas, not related to chemical weapons, are protected.

29. The Danish Agency for Development of Trade and Industry is entitled to take measures to protect sensitive installations and prevent the disclosure of sensitive information and data not related to chemical weapons.

30. In respect of challenge inspections, detailed provisions are laid down in Article IX, paragraph 8 and the Verification Annex, Part X of the Convention.

Chapter 4

Facility Agreement

31. A facility agreement is an agreement entered into by the OPCW and national authorities in connection with the first inspection of an enterprise. The object of a facility agreement is to manage the activities for the inspection team and the inspection site during an inspection with a view to facilitating future inspections, protecting business secrets, and ensuring that the time frame of the inspection is complied with.

32.(1) For enterprises covered by section 2(1), a facility agreement shall be concluded between the Danish Agency for



Development of Trade and Industry and the OPCW.

(2) For enterprises covered by section 3(1), a facility agreement shall be drawn up for the enterprise unless the Danish Agency for Development of Trade and Industry, the enterprise and the OPCW reach agreement that it is not necessary.

(3) For enterprises covered by section 4(1), no facility agreement shall be entered into unless requested by the Danish Agency for Development of Trade and Industry.

(4) Representatives of the inspected facility shall submit to the Danish Agency for Development of Trade and Industry relevant information in connection with negotiations concerning a facility agreement for the facility and participate in the negotiations, if required.

Chapter 5 Common Provisions

33.(1) Violation of sections 2(1) and (2), 3(1), 4(1), 5 and 6(2) shall be punishable by fine.

(2) Pursuant to the provisions of Chapter 5 of the Criminal Code, enterprises and the like (legal persons) may be held criminally liable.

34. This Executive Order shall come into force on (date)

The Danish Agency for Promotion of Trade and Industry, on
(date)

Lars Kolte

/Bent Lindhardt Andersen



Schedule 1

Annex

Schedule 1 comprises chemicals which have been developed, produced, stockpiled or used as chemical weapons and the precursors of these chemicals. The Schedule includes inter alia mustard gases and nerve gases. The chemicals listed have very little use for civilian purposes, for example research.

Schedule 2

Schedule 2 comprises chemicals and substances which are precursors to chemical weapons. They serve, however, also some commercial uses as precursors to, for example, insecticides, herbicides, lubricants and pharmaceuticals.

Schedule 3

Schedule 3 comprises chemicals which may be used as precursors to the production of chemical weapons, but are produced in large quantities for civilian uses. Producers of herbicides, insecticides, pharmaceuticals, paint, textiles and lubricants are the most significant consumers of these chemicals which are used as precursors to the products mentioned.

DOC and PSF

The Convention comprises, furthermore, unlisted discreet (well-defined) organic chemicals (DOC) including the chemicals which contain phosphorus, sulphur and fluorine (PSF). These DOCs are produced primarily by enterprises which manufacture petrochemicals, pharmaceuticals and pesticides.



Act No 470 of 10 June 1997

Act to amend Act on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons
(Transfer of competence from government customs and tax authorities to the Ministry of Business and Industry)

Section 1

In Act No 443 of 14 June 1995 on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons, the following amendments shall be made:

1. In section 5(1) "government customs and tax authorities" shall be amended to: "the Ministry of Business and Industry".
2. Section 5(2) shall read as follows:
"(2) The Minister for Business and Industry shall, following negotiation with the Minister for Foreign Affairs, lay down further rules for the collection and submission of the information mentioned in subsection 1."
3. In section 6(1) "Government customs and tax authorities" shall be amended to: "The Ministry of Business and Industry".
4. In section 6(2) "government customs and tax authorities" shall be amended to: "the Ministry of Business and Industry" and "these" to: "this".
5. In section 6(3) "the government customs and tax authorities" shall be amended to: "the Ministry of Business and Industry".
6. Section 6(5) shall read as follows:
"(5) The Minister for Business and Industry shall, following negotiation with the Minister for Foreign Affairs, lay down further rules for the implementation of the checks."
7. Section 8(3) shall read as follows:
"(3) Pursuant to the provisions of Chapter 5 of the Criminal Code, enterprises and the like (legal persons) may be held criminally liable."

Section 2

The Minister for Foreign Affairs shall decide the date for the entry into force of the Act.

Section 3



This Act shall not apply to the Faroe Islands and Greenland, but shall be enforceable in the Faroe Islands and Greenland by Royal Ordinance subject to such modifications as are required in view of the special conditions obtaining in the Faroe Islands and Greenland.

Act 1995-06-14 No 443 on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons*)

Chapter 1.

International Inspections

1.(1) International inspectors (1) are entitled to perform inspections in this country in pursuance of the United Nations Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. The objective of the inspections is to check that Denmark meets her obligations under the Convention.

(2) Observers from States which have acceded to the Convention may participate in the inspections to the extent this follows from the Convention.

(3) Inspectors and observers must be approved by the Minister for Business and Industry in his capacity of National Authority pursuant to the Convention and are required, during an inspection, to be accompanied by one or several representatives of the Danish Government.(2)

2.(1) For the purpose of carrying out checks under section 1, inspectors, their Danish escort team and any observers shall jointly, on due proof of identity, without a court order, be granted access (3), to the extent this follows from the Convention, to

1) inspect any property, any building or any area within a building;

2) have goods traffic from facilities covered by the inspection halted and checked;

3) collect and analyse samples at facilities covered by the inspection;

4) bring along and apply measuring instruments and other technical equipment for the purpose of collecting and registering information;

5) leave measuring instruments and other material on the site of the inspection and

6) collect all other particulars of significance for the inspection.

2(2) Examination of the human body, including sampling, as part of the inspection may solely be effected on the basis of a court order. Litigation concerning such matter shall be conducted in the forms of criminal justice.(3a)

2(3) The owner or the user of the property where inspection is to be conducted shall be notified as soon as possible by the Minister for Business and Industry or the person empowered to do



so, unless special reasons warrant deviation from this rule.(5) If the inspection is conducted without prior notification, notification shall be given subsequently.(6)

2(4) Employees at facilities covered by the inspection are required to assist in the conduct of the inspection, to the extent following from the Convention.(7)

2(5) The police shall render the assistance required for the conduct of the inspection.(8)

3. On behalf of the Danish Government, the Ministry of Business and Industry shall be liable for any damage caused by an inspector or observer during the performance of his duties under the rules which would apply if the damage was caused by a person employed by the Danish Government.(9)

4. Following negotiation with the Minister for Foreign Affairs and the Minister for Justice, the Minister for Business and Industry shall lay down more specific rules governing the conduct of inspections.

Chapter 2

National Submission of Declarations and Control

5.(1) Enterprises are required, if requested by government customs and tax authorities to submit all information necessary for the purpose of declarations to be submitted pursuant to the provisions of the Convention.

(2) Following negotiation with the Minister for Business and Industry and the Minister for Foreign Affairs, the Minister for Taxation shall lay down more specific rules governing the collection and submission of the information mentioned in subsection 1.

6.(1) Government customs and tax authorities are entitled to pay unannounced control visits to enterprises with a view to checking the information submitted under section 5(1).(10)

(2) In connection with control pursuant to subsection 1, government customs and tax authorities and persons empowered thereto by the government customs and tax authorities shall be granted access to

- 1) move within and check any property, any building or any area within a building covered by the control;
- 2) have goods traffic from facilities covered by the control halted and checked;
- 3) collect and analyse samples at facilities covered by the control;(10a)
- 4) bring along and apply measuring instruments and other technical equipment for the purpose of collecting and registering information;
- 5) leave measuring instruments and other material on the site for



the control and

6) collect all other particulars of significance for the control.

(3) The owner or the person in charge of the enterprise and enterprise personnel are required to render the government customs and tax authorities the guidance and assistance necessary for the implementation of the control.(10b)

(4) the police shall render the assistance required for the implementation of the control.(11)

Chapter 3 Criminal Provisions

7. Violation of sections 2(4) and 6(3) shall be punishable by fine.(12)

8.(1) Unless more severe punishment is otherwise provided by law, any person who wilfully or due to gross negligence submits wrongful or misleading information or suppresses information shall, pursuant to section 5(1), be punishable by fine, simple detention or under aggravated circumstances by prison of up to 2 years.

(2) Rules and regulations issued in pursuance of the Act shall lay down punishment by fine for violation of the provisions of the rules and regulations.

(3) Where a violation has been committed by a society, an association, an independent institution, a foundation or the like, the legal person as such shall be liable to a fine. Where the violation has been committed by the Government, a municipality or a local authority corporation, cf section 60 of the Local Government Act, the Government, the municipality or the local authority corporation may be liable to a fine.

Chapter 4 Provisions of Coming into Force

9. The Minister for Foreign Affairs shall decide the date for the entry into force of the Act.

10. This Act shall not apply to the Faroe Islands and Greenland, but shall be enforceable in the Faroe islands and Greenland by Royal Ordinance subject to such modifications as are required in view of the special conditions obtaining in the Faroe Islands and Greenland.

Executive Order No 297 of 30 April 1997

Executive Order on the Entry into Force of Act on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons

In pursuance of section 9 of Act No 443 of 14 June 1995 on Inspections, Submission of Declarations and Control pursuant to the United Nations Convention on the Prohibition of Chemical Weapons, this Act shall enter into force on 2 May 1997.

Ministry of Foreign Affairs on 30 April 1997



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